



**TARRANT ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

**April 5, 1977**

The Honorable Donald C. Klein  
Executive Director  
Texas State Board of Registration  
for Professional Engineers  
Room 200, 1400 Congress  
Austin, Texas 78701

Open Records Decision No. 157  
Re: Whether an engineer's  
licensing file is public  
under the Open Records Act.

Dear Mr. Klein:

You have requested our decision as to whether certain information in an engineer's licensing file is public under the Open Records Act, article 6252-17a, V.T.C.S. An attorney has requested copies of all documents in the file of an engineer registered with the Texas State Board of Registration for Professional Engineers. You have agreed to make available information regarding the engineer's date of registration, his college degrees, his current status, and any periods during which his registration was not in effect. You have declined to furnish the engineer's licensing examination scores, letters of reference, college transcripts, and application for registration, and contend that this information is excepted under section 3(a)(1) as information made confidential by the right of privacy.

The requestor seeks disclosure of the engineer's scores on the Professional Engineer and Engineer-in-Training examinations, both of which are provided for by statute and administered by the Board. V.T.C.S. art. 3271a, § 12a. In Attorney General Opinion H-242 (1974), we held that grades on examinations administered by the State Board of Vocational Nurse Examiners were not excepted from disclosure under the Open Records Act. In our opinion, this principle is equally applicable to grades on examinations conducted by the Board of Registration for Professional Engineers. We are thus of the view that the Board must disclose such scores regarding a particular individual. See also Attorney General Opinion H-483 (1974).

The requestor also seeks to obtain copies of reference letters submitted on behalf of the engineer at the time of

his application for registration. These letters of reference were in the form of a standardized questionnaire on which was printed the following statement: "We assure you this information will be treated in confidence." The second page of the questionnaire contained a similar promise of confidentiality. All questionnaires relating to the engineer in question were completed and returned to the Board in 1966.

In Open Records Decision No. 55A (1975), we held that, in cases in which an evaluation or recommendation was made under a contract of confidentiality prior to June 14, 1973, the effective date of the Open Records Act, such agreements may be honored by the state agency to whom the evaluation was given. Since the letters of reference at issue herein were obtained in 1966 under a specific written assurance of confidentiality, it is our opinion that the Board is authorized to withhold such documents from disclosure.

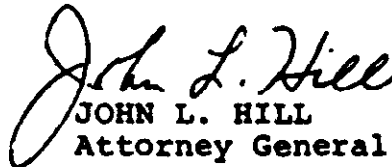
As to the engineer's college transcripts, it is clear that such information is excepted from public disclosure while in the possession of any "educational institutions funded wholly, or in part, by state revenue." V.T.C.S. art. 6252-17a, § 3(a)(14). A copy of the transcript in question was furnished the Board of Registration for Professional Engineers by the engineer or at his direction.

The Board of Registration for Professional Engineers is not covered by section 3(a)(14) and must rely, therefore, on section 3(a)(1) of the Act, which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." We have been pointed to no statute or judicial decision indicating that a college transcript which is not then in the possession of a state funded educational institution is protected from disclosures by a constitutional, statutory or common law right of privacy, nor has our research revealed such a statute or decision. Thus, we feel obliged to rule that an engineer's college transcript held by the Board of Registration for Professional Engineers at the behest of the engineer is not excepted by present law from public disclosure under section 3(a)(1) of the Open Records Act.

Finally, the requestor seeks to obtain a copy of the engineer's application for registration. We have examined the application, and we note that it contains only information such as the applicant's date and place of birth, registration in other states, names of institutions attended and degrees obtained, prior and present employment, and the names and

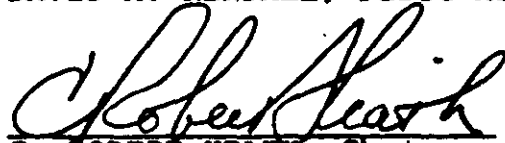
addresses of persons asked to furnish references. In our opinion, none of the information contained in this particular application is encompassed within one of the zones of privacy outlined by the Supreme Court in the Industrial Foundation case. See Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976), cert. denied, No. 76-840 (U.S. Mar. 21, 1977). Nor do we believe that it is excepted from disclosure under any other provision of the Open Records Act. Thus, It is our opinion that a copy of this engineer's application for registration, filed with the Board of Registration for Professional Engineers, should be made available to the requestor.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
Opinion Committee

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